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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CAMERON ANTHONY ODOM,

Defendant.

**CASE NO. 21-CR-00259-JST-1**

**UNITED STATES' MOTION FOR LEAVE TO  
FILE MOTION TO RECONSIDER;  
[PROPOSED] ORDER**

GOV'T MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION

CASE NO. 21-CR-00259 JST

1 The United States moves for leave to file a motion for reconsideration of this Court's March 2,  
 2 2022, order granting defendant Cameron Anthony Odom's motion to suppress evidence. Dkt. 49  
 3 (Suppression Order).

4 **A. Applicable legal standards**

5 Northern District Criminal Rules 2-1, 47-1 and 47-2, together with Civil Rule of Court 7-9,  
 6 authorize a motion for leave to file a motion for reconsideration in specified circumstances. The Court's  
 7 rules require a party to first seek leave of Court. Civil L.R. 7-9(a). The party seeking reconsideration must  
 8 also show reasonable diligence in seeking the relief. Civil L.R. 7-9(b). One of the grounds for relief is  
 9 "[a] manifest failure by the Court to consider material facts or dispositive legal arguments which were  
 10 presented to the Court before such interlocutory order." Civil L.R. 7-9(b)(3). In addition, the Ninth Circuit  
 11 has held that district courts have "inherent power" to grant motions for reconsideration in criminal cases.  
 12 *United States v. Lopez-Cruz*, 730 F.3d 803, 811 (9th Cir. 2013); see *United States v. Ibarra*, 502 U.S. 1, 4  
 13 (1991) (per curiam) (citing *United States v. Dieter*, 429 U.S. 6, 8–9 (1974) (per curiam); *United States v.*  
 14 *Healy*, 376 U.S. 75, 77–78 (1964)).

15 **B. The government has been reasonably diligent**

16 The government has been reasonably diligent in seeking leave to file a motion for reconsideration.  
 17 "A motion for reconsideration is timely presented if filed within the original period for review," *United*  
 18 *States v. Villapudua-Perada*, 896 F.2d 1154, 1156 (9th Cir. 1990) (citation omitted), which is thirty days,  
 19 18 U.S.C. § 3731. Fed. R. App. P. 4(b). This motion is being filed within the thirty days the government  
 20 has to file its Notice of Appeal.

21 **C. This Court should exercise its discretion to reconsider its Suppression Order**

22 This Court should exercise its discretion to reconsider its Suppression Order because it is premised  
 23 on both legal and factual error.

24 First, the court excluded evidence in the case on an issue—the constitutionality of a tow—that the  
 25 defendant Cameron Anthony Odom waived by failing to raise in his motion to suppress and only raised  
 26 for the first time in his reply brief. The government was deprived wholesale of the opportunity to brief,  
 27 introduce evidence, or argue the issue. The government therefore asks the Court to either grant  
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1 reconsideration of its Suppression Order to rule the untimely issue waived or allow the government to  
2 brief the issue in the first instance. With the benefit of briefing, the Court will see that the community  
3 caretaking exception applies to the vehicle tow.

4 Second, the Court's mode of reasonable suspicion analysis parallels the impermissible divide-and-  
5 conquer approach as opposed to the requisite assessment of the totality of the circumstances. Specifically,  
6 the Court weighed the factors of its analysis independently instead of together. *See, e.g.*, Dkt. 49 at 11  
7 ("Thus, the Court considers this [time-of-day] factor, but finds it insufficient by itself to support a finding  
8 of individualized reasonable suspicion."); 14 (excluding from its totality analysis the inconsistent  
9 information about the BMW's ownership provided by Odom); 16 (concluding the nervousness factor  
10 provides "minimal, if any, support to the reasonable suspicion analysis"); 16 (determining that Odom's  
11 prior firearm offenses or gang affiliations should not be considered in assessing reasonable suspicion); 17  
12 (explaining that "time of day does not provide individualized suspicion"). The Supreme Court expressly  
13 precludes this approach. *United States v. Arvizu*, 534 U.S. 266, 274 (2002). The government asks the  
14 Court to reconsider its Suppression Order to analyze reasonable suspicion of the search using the totality  
15 of the circumstances analysis.

16 Third, the Court then concluded that past convictions and gang affiliations do not support the  
17 inference that anyone is currently armed and dangerous, and excluded these factors from its totality  
18 analysis. Dkt. 49 at 16 ("The fact that Odom may have been charged or convicted of prior firearm offenses  
19 or gang affiliations does not support a reasonable officer's inference that Odom is currently armed and  
20 dangerous. To hold otherwise would permit officers to expand a stop into a separate criminal investigation  
21 . . . ."). As a matter of law, this is incorrect. Criminal history and gang affiliations do constitute "relevant  
22 and highly probative" factors that officers may consider in assessing whether there is reasonable suspicion  
23 that someone is currently armed and dangerous. *United States v. Perez*, 603 F. App'x 620, 622 (9th  
24 Cir. 2015). The government asks the Court to reconsider its Suppression Order to include these factors in  
25 its totality of the circumstances analysis.

26 Fourth, certain factors in the Court's totality of circumstances analysis are omitted or discounted,  
27 in contravention to law and the record, such as time of day, nervousness, inconsistent statements. On this  
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GOV'T MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION

1 ground too, the government asks the Court to reconsider its Suppression Order to reassess its weighing of  
2 these factors.

3 For the foregoing reasons, the United States respectfully requests the Court should grant this  
4 motion.

5  
6 DATED: APRIL 1, 2022

Respectfully submitted,

7 STEPHANIE M. HINDS  
8 United States Attorney

9 /s/ Kaitlin Paulson  
10 KAITLIN PAULSON  
Assistant United States Attorney

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12  
13 **[PROPOSED] ORDER**

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15 The Court GRANTS this motion for leave to file the motion for reconsideration.

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17 DATED:

18 HON. JON S. TIGAR  
19 United States District Judge

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28 GOV'T MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION